

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
AT HUNTINGTON**

MICHAEL WALKER, individually,

Plaintiff,

vs.

Civil Action No. : 3:18-cv-01523

Hon. Robert C. Chambers, U.S. District Judge

M. H. LOVEJOY, in his individual capacity,
B.E. DONAHOE, in his individual capacity,
B.W. PAULEY, in his individual capacity,
PUTNAM COUNTY COMMISSION, a
political subdivision of the State of West
Virginia,

Defendants.

PLAINTIFF'S AMENDED MOTION FOR SUMMARY JUDGMENT

Plaintiff, by counsel, John H. Bryan, pursuant to FED. R. CIV. P. 56, respectfully moves the Court for summary judgment. As more fully set out in plaintiff's memorandum in support, filed contemporaneously with the original motion and incorporated herein, the pleadings, depositions, sworn testimony and other documents show that there is no genuine issue as to any material fact related to Counts Three and Four of the plaintiff's complaint and plaintiff is entitled to judgment as a matter of law on the said counts, and for a jury trial on the issue of damages only.

Plaintiff notes that he files the following amendments to his original Motion for Summary Judgment, in order to correct a typo where in the first paragraph, counts 3 and 4 were mentioned as the remaining counts subject to summary judgment analysis, and then the final paragraph erroneously stated "Count Two," which counsel just now noticed. Counsel also

included a specific request to deny the defendants' motion for summary judgment for the same reasons, as it was not expressly mentioned in the original motion, but was obviously implied therein as a plaintiff's cross-dispositive motion on the same remaining counts.

Accordingly, the plaintiff respectfully requests the Court to GRANT his motion and ORDER that summary judgment be entered in his favor on COUNTS THREE AND FOUR (Unreasonable Search and Seizure and Bystander Liability) of the complaint, and for the same reasons discussed therein, deny defendants the relief sought in their motion for summary judgment.

MICHAEL WALKER
By Counsel

/s/ John H. Bryan
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for the Plaintiff

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CERTIFICATE OF SERVICE

I, John H. Bryan, do hereby certify that I have delivered a true copy of the foregoing
PLAINTIFF'S AMENDED MOTION FOR SUMMARY JUDGMENT upon counsel of record
by using the CM/ECF System, this the 21st day of January, 2020, and addressed as follows:

John P. Fuller, Esq.
Charles R. Bailey, Esq.
Adam K. Strider, Esq.
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Charleston, WV 25337-3710

/s John H. Bryan